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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,475	01/26/2005	Franz Kunz	2003P02452WOUS	1187

7590 10/07/2005

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

ESHETE, ZELALEM

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

(A)

Office Action Summary	Application No. 10/522,475	Applicant(s) KUNZ ET AL.	
	Examiner Zelalem Eshete	Art Unit 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11, 13-15, 17 and 19 is/are rejected.
- 7) ☒ Claim(s) 12, 16, 18 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/26/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

This Office Action is in response to the preliminary amendment filed on 1/26/2005.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11,13-15,17,19 are rejected under 35 U.S.C. 102(b) as being anticipated by Quinn et al. (5,218,935).

Regarding claim 11: Quinn discloses a method for controlling an internal combustion engine having a camshaft, a crankshaft sensor, and a camshaft sensor (see figure 1b), comprising: adapting a reference value for a phase of the camshaft in a predefined position of a setting mechanism when a predefined condition is satisfied (see numeral 35; column 2, lines 15 to 20); determining a measurement value for the phase depending on a sensed crankshaft angle and a camshaft angle (see numeral 107); determining a corrected measurement value for the phase depending on the reference value and the measurement value for the phase (see figure 1b, numeral 108; figure 1c); and determining a control signal for controlling the internal combustion engine depending on the corrected measurement value (see figure 1b, numeral 108; figure 1c).

Regarding claim 13: Quinn discloses the set of ambient conditions are present when the temperature of the internal combustion engine lies within "a predefined range" (see column 5, lines 33 to 43).

Regarding claim 14: Quinn discloses the adaptation takes place near a time when the internal combustion engine starts up (see figure 1b, column 2, lines 64 to 69).

Regarding claim 15: Quinn discloses the adaptation takes place depending on a variable that is characteristic of a load on the internal combustion engine (see figure 1b; column 2, lines 15 to 22).

Regarding claim 17: Quinn discloses the variable that is characteristic of the load on the internal combustion engine is a variable that is characteristic of the full load acceleration (see figure 1b; column 2, lines 15 to 22).

Regarding claim 19: Quinn discloses the variable that is characteristic of the load on the internal combustion engine is the period of operation of the internal combustion engine (see figure 1b; column 2, lines 15 to 22).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13,15,17,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quinn.

Regarding claim 13: Quinn discloses the claimed invention as recited above; however fails to specifically disclose the set of ambient conditions are present when the temperature of the internal combustion engine lies within a predefined range.

However, Quinn discloses an expanded feedback control system that comprises variation compensation for the temperature (see column 5, lines 33 to 43).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to also specify the claimed conditions since Quinn establishes temperature dependency in the control strategy.

Regarding claim 15: Quinn discloses the adaptation takes place depending on a variable that is characteristic of a load on the internal combustion engine, in that the predetermined set point dictates for certain engine operating criteria and the torque is important engine operating characteristics (see figure 1b; column 2, lines 15 to 22).

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Regarding claim 17: Quinn discloses the variable that is characteristic of the load on the internal combustion engine is a variable that is characteristic of the full load acceleration (see figure 1b; column 2, lines 15 to 22).

Regarding claim 19: Quinn discloses the variable that is characteristic of the load on the internal combustion engine is the period of operation of the internal combustion engine (see figure 1b; column 2, lines 15 to 22).

Allowable Subject Matter

5. Claims 12,16,18,20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zelalem Eshete whose telephone number is (571) 272-4860. The examiner can normally be reached on Monday to Thursday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Zelalem Eshete
Examiner
Art Unit 3748

A handwritten signature in black ink, appearing to read 'Zelalem Eshete', written in a cursive style.


THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700